

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

MATTHEW SPRAGUE,

Plaintiff,

- against -

VICE MEDIA LLC

Defendant.

Docket No. 1:17-cv-4118

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Matthew Sprague (“Sprague” or “Plaintiff”) by and through his undersigned counsel, as and for his Complaint against Defendant Vice Media LLC (“Vice” or “Defendant”) hereby alleges as follows:

NATURE OF THE ACTION

1. This is an action for copyright infringement under Section 501 of the Copyright Act. This action arises out of Defendant’s unauthorized reproduction and public display of nine images of a boxing match owned and registered by Sprague, a Maryland based professional Photographer. Accordingly, Sprague seeks monetary relief under the Copyright Act of the United States, as amended, 17 U.S.C. § 101 *et seq.*

JURISDICTION AND VENUE

2. This claim arises under the Copyright Act, 17 U.S.C. § 101 *et seq.*, and this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. This Court has personal jurisdiction over Defendant because Defendant resides in and/or transacting doing business in New York and is registered to do business in the State of New York.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

PARTIES

5. Sprague is a professional Photographer having a usual place of business at 1408 Teal Lane, Frederick, Maryland 21703.

6. Upon information and belief, Vice is a foreign limited liability company duly organized and existing under the laws of the State of Delaware, with a place of business at 29 South 2nd Street, Brooklyn, New York 11211. Upon information and belief, Vice is registered with the New York Department of State, Division of Corporations to do business in the State of New York. At all times material hereto, Vice has owned and operated a website at the URL: www.Fightland.Vice.com (the “Website”).

STATEMENT OF FACTS

A. Background and Plaintiff’s Ownership of the Photographs

7. Sprague photographed a boxing coach Calvin Ford (the “Photographs”). A true and correct copy of the Photographs is attached hereto as Exhibit A.

8. Sprague is the author of the Photographs and has at all times been the sole owner of all right, title and interest in and to the Photographs, including the copyright thereto.

9. The Photographs were registered with US Copyright Office and was given Copyright Registration Number VA 2-036-377.

B. Defendant’s Infringing Activities

10. Upon information and belief, Vice ran an article on the Website entitled *Hope and Fisticuffs in the Land of 'The Wire'*. See <http://fightland.vice.com/blog/hope-and-fisticuffs-in-the-land-of-the-wire>. The article prominently featured the Photographs. A true and correct copy of the article with the Photographs is attached hereto as Exhibit B.

11. Vice did not license the Photographs from Plaintiff for its article, nor did Vice have Plaintiff's permission or consent to publish the Photographs on its Website.

CLAIM FOR RELIEF
(COPYRIGHT INFRINGEMENT AGAINST VICE)
(17 U.S.C. §§ 106, 501)

12. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-11 above.

13. Vice infringed Plaintiff's copyright in the Photographs by reproducing and publicly displaying the Photographs on the Website. Vice is not, and has never been, licensed or otherwise authorized to reproduce, publicly display, distribute and/or use the Photographs.

14. The acts of Defendant complained of herein constitute infringement of Plaintiff's copyright and exclusive rights under copyright in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

15. Upon information and belief, the foregoing acts of infringement by Vice have been willful, intentional, and purposeful, in disregard of and indifference to Plaintiff's rights.

16. As a direct and proximate cause of the infringement by the Defendant of Plaintiff's copyright and exclusive rights under copyright, Plaintiff is entitled to damages and defendant's profits pursuant to 17 U.S.C. § 504(b) for the infringement.

17. Defendant's conduct, described above, is causing, and unless enjoined and restrained by this Court, will continue to cause Plaintiff irreparable injury that cannot be fully compensated by or measured in money damages. Plaintiff has no adequate remedy at law.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests judgment as follows:

1. That Defendant Vice be adjudged to have infringed upon Plaintiff's copyrights in the Photographs in violation of 17 U.S.C §§ 106 and 501;
2. Plaintiff be awarded Plaintiff's actual damages and Defendant's profits, gains or advantages of any kind attributable to Defendant's infringement of Plaintiff's Photographs
3. That Defendant be required to account for all profits, income, receipts, or other benefits derived by Defendant as a result of its unlawful conduct;
4. That Plaintiff be awarded pre-judgment interest; and
5. Such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on all issues so triable in accordance with Federal Rule of Civil Procedure 38(b).

Dated: Valley Stream, New York
July 11, 2017

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